City of Chicago
Richard M. Daley, Mayor

Department of Housing
John G. Markowski
Commissioner

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April 2, 2004

Docket No. 04-06
Communications Division
Public Information Room, Mailstop 1-5
Office of the Comptroller of the Currency
250 E St. SW,
Washington 20219

Docket No. R-1181
Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St NW
Washington DC 20429

Regulation Comments, Attention: No. 2004-04
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington DC 20552

Dear Officials of Federal Bank and Thrift Agencies:

On behalf of the City of Chicago, I am writing to urge you to withdraw the proposed changes to the Community Reinvestment Act (CRA) regulations. CRA has been instrumental in increasing access to homeownership and boosting economic development in Chicago. I am concerned that your proposed changes may halt progress in our efforts to develop and revitalize Chicago's communities.

The proposed changes include two major elements that are of particular concern: 1) provide streamlined and cursory exams for banks with assets between $250 million and $500 million and 2) establish a weak predatory lending compliance standard under CRA, In addition, the federal banking agencies did not update procedures regarding affiliates and assessment areas in their proposal, and thus missed a vital opportunity to continue CRA's effectiveness.

Streamlined and Cursory Exams. Under the current CRA regulations, large banks with assets of at least $250 million are rated by performance evaluations that scrutinize their level of lending, investing, and services to low- and moderate-income communities. The proposed changes will eliminate the investment and service parts of the CRA exam for banks and thrifts with assets between $250 and $500 million. The proposed changes would reduce the rigor of CRA exams for 1,111 banks that account for more than **$387** billion in assets.

The elimination of the investment and service tests for more than 1,100 banks translates into considerably less access to banking services and capital for underserved communities. For example, these banks would no longer be held accountable under CRA exams for investing in Low Income Housing Tax Credits, which have been a major source of affordable rental housing needed by large numbers of immigrants and lower income segments of the minority population. Likewise, the banks would no longer be held accountable for the provision of bank branches, checking accounts, Individual Development Accounts (IDAs), or debit card services. Moreover, the federal bank agencies will fail to enforce CRA's statutory requirement that banks have a continuing and affirmative obligation to serve credit and deposit needs if they eliminate the investment and service test for a large subset of depository institutions.

<u>Predatory Lending Standard</u>. The proposed CRA changes contain an anti-predatory screen that may actually perpetuate abusive lending. The proposed standard states that loans based on the foreclosure value of the collateral, instead of the ability of the borrower to repay, can result in downgrades in **CRA** ratings, The asset-based standard falls short because it will not cover many instances of predatory lending. For example, abusive lending would not result in lower CRA ratings when it strips equity without leading to delinquency or foreclosure. In other words, borrowers can have the necessary income to afford monthly payments, but they are still losing wealth as a result of a lender's excessive fees or unnecessary products.

An effective anti-predatory standard should address the problems of the packing of fees into mortgage loans, high prepayment penalties, loan flipping, mandatory arbitration, and other numerous abuses. In addition, an anti-predatory standard must apply to all loans made by the bank and all of its affiliates, not just real-estate secured loans issued by the bank in its "assessment area" as proposed by the agencies.

<u>Missed Opportunity to Update Exam Procedures</u>: The agencies also failed to close gaping loopholes in the CRA regulation. Banks can still elect to include affiliates on CRA exams at their option. They can thus manipulate their CRA exams by excluding affiliates not serving low- and moderate-income borrowers and excluding affiliates engaged in predatory lending. The game playing with affiliates will end only if the federal agencies require that all affiliates be included on exams. Lastly, the proposed changes do not address the need to update assessment areas to include geographical areas beyond bank branches. Many banks make considerable portions of their loans beyond their branches; this non-branch lending activity will not be scrutinized by CRA exams.

The proposed changes to CRA will directly undercut the City of Chicago's efforts to increase homeownership and access to banking services. The proposals regarding streamlined exams and the anti-predatory lending standard threaten CRA's statutory purpose of the safe and sound provision of credit and deposit services. CRA is a key tool in the revitalization of Chicago's neighborhoods, and I encourage you to reject any proposal that would weaken CRA. Thank you for your attention to this critical matter.

Sincerely,

John G. Markowski
Commissioner